

Montana Department of Public Health & Human Services	Policy
	MT CACFP 2003-1 Rev 7
	Section: All Institutions
Child and Adult Care Food Program	Subject: Serious Deficiency Determinations
	Date Revised: 5/26/2016

SERIOUS DEFICIENCY DETERMINATIONS

- A. Using 7 CFR 226.6/ 226.16(l)(2) and the Serious Deficiency, Suspension, and Appeals for State Agencies and Sponsoring Organizations CACFP Handbook as guides, the State agency will use review tools and Sponsoring Organizations will use the *Sponsor Monitoring Form* as references to decide when an institution should be determined to be Seriously Deficient (SD) in their operation of the CACFP.
- B. A determination of SD to an institution can be made at any time.
- C. The State agency and/or Sponsoring Organization will use the combined judgment of their staff and supervisors to determine whether the institution will be declared SD.
- D. The institution is allowed up to 30 days to complete and permanently correct all corrective action(s) associated with their SD determination and as required by the Sponsoring Organization or State agency.
- E. A provider in SD status cannot cease participation in the CACFP or switch to a different Sponsoring Organization without addressing the corrective action(s) associated with their SD. Providers must be in good standing for 30 days after the SD is temporarily deferred before switching to another Sponsoring Organization.
- F. The State agency will add information for all SD's issued and temporarily deferred to the State agency's SD list immediately as these occur. The State agency will notify USDA-FNS of all SD's issued and temporarily deferred immediately as these occur.
- G. If the required corrective actions associated with the SD are not corrected by the institution within 30 days, then the Sponsoring Organization or State agency will proceed to terminate the institution from the CACFP. See Policy MT 2000-8 Rev 4, Termination & Disqualification of Institutions, for information and details. If the State agency determines the corrective actions are not complete and permanent, this action is not appealable.
- H. An institution's agreement must continue throughout the duration of the SD process, to allow for payment of valid claims. If the SD occurs during the application update timeframe, the SA must continue to pay claims based on the institution's most recently approved budget.

- I. If the date of birth (DOB) for any individual named as a responsible principal or individual is not known by the State agency, that information must be included as a corrective action within the SD notice.

New Institutions

- A. Submission of false information in the institution's application including but not limited to, a determination that the institutions RP/Is have concealed a conviction for any activity that occurred during the past seven years and that indicates a lack of business integrity. A lack of business integrity includes deception, antitrust violations, embezzlement, theft, forgery, bribery, falsification or destruction of justice, or any other activity indicating a lack of business integrity as defined by State agency; or
- B. Any other action affecting the institution's ability to administer the Program in accordance with Program requirements [7 Code of Regulations (CFR) 226.6(c)(1)].

Institutions at application renewal

- A. Submission of false information on the institution's application, including but not limited to, a determination that the institution has concealed a conviction for any activity that occurred during the past seven years and that indicates a lack of business integrity. A lack of business integrity includes deception, antitrust violations, embezzlement, theft, forgery, bribery, fraud or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice, or any other activity indicating a lack of business integrity as defined by the State agency;
- B. Any other action affecting the institution's ability to administer the Program in accordance with Program requirements [7 CFR 226.6(b)(1)(xviii);(b)(2)(vii)] and including but not limited to deficiencies listed on pg. 11 of the USDA Serious Deficiency, Suspension, & Appeals Handbook, February, 2015.

Participating institutions

- A. Submission of false information on the institution's application, including but not limited to, a determination that the institution has concealed a conviction for any activity that occurred during the past seven years and that indicates a lack of business integrity. A lack of business integrity includes deception, antitrust violations, embezzlement, theft, forgery, bribery, fraud or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice, or any other activity indicating a lack of business integrity as defined by the State agency;
- B. Any other action affecting the institution's ability to administer the Program in accordance with Program requirements [7 CFR 226.6(b)(1)(xviii);(b)(2)(vii)] and including but not limited to deficiencies listed on pg. 12 & 13 of the USDA Serious Deficiency, Suspension, & Appeals Handbook, February, 2015.

For Sponsoring Organizations Only

- A. Sponsoring organizations should become familiar with the serious deficiencies. The following are noncompliance issues that rise to the level of a serious deficiency [7 CFR 226.16(1)(2)]:
1. Submission of false information in the DCH's application;
 2. Submission of false claims for reimbursement;
 3. Simultaneous participation under more than one sponsor;
 4. Non-compliance with the Program meal pattern;
 5. Failure to keep required records;
 6. Conduct or conditions that threaten the health or safety of a child(ren) in care, Or the public health or safety;
 7. A determination that the provider has been convicted of any activity that occurred during the past seven years and that indicated a lack of business integrity. A lack of business integrity includes deceit, antitrust violations, embezzlement, theft, forgery, bribery, falsification or destruction of records making false statements, receiving stolen property, making false claims, obstruction of justice, or any other activity indicating a lack of business integrity as defined by the State agency, or the concealment of such a conviction;
 8. Failure to participate in training; and
 9. Any other circumstances related to non-performance under the sponsoring organization's DCH agreement, as specified by the sponsoring organization or the State agency.

This list should not be considered all-inclusive.

- B. Immediately after the Sponsoring Organization issues a SD to a provider, the Sponsoring Organization must notify the State agency of this action. The Sponsoring Organization must provide the State agency with a copy of the notice of action letter issuing the SD and must include the corrective action(s) required. The notice of action letter to the provider needs to include all of the elements in 226.16(l)(3)(2).
- C. Immediately after the Sponsoring Organization temporarily defers the SD for a provider, the Sponsoring Organization must notify the State agency of this action and must provide the State agency with a copy of the notice of action letter temporarily deferring the SD. The notice of action letter must include acceptance of the required corrective action(s).

[REF: 7 CFR 226]